IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

E.F.A.No.33 of 1998

AGAINST THE ORDER DATED 06/08/1998 IN E.A.1144/1996 IN E.P.315/1995 IN O.S.1065/1992 OF THE II ADDITIONAL SUB COURT, THRISSUR.

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APPELLANT/CLAIM PETITIONER:-

EXPRESS MALAYALAM (P) LTD., THRISSUR,
REPRESENTED BY ITS GENERAL MANAGER.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS/DECREE HOLDER & JUDGMENT DEBTORS 1 TO 3:-

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1. GURUVIJAYA KURI COMPANY (P) LTD., THRISSUR.

2. CHANDRA BALAKRISHNAN, W/O.BALAKRISHNAN, MURUGA NIVAS, KORANDAYIL LANE, THRISSUR.

3. BALAKRISHNAN, S/O.KRISHNAN, MURUGA NIVAS, KORANDAYIL LANE, THRISSUR.

4. VIDHYA BALAKRISHNAN, D/O.BALAKRISHNAN, MURUGA NIVAS, KORANDAYIL LANE, THRISSUR.

R1 BY ADV. SRI.N.P.SAMUEL
R2 & R3 BY ADV.SRI.V.V.ASOKAN
SMT.K.P.RENJINI.

THIS EXECUTION FIRST APPEAL HAVING BEEN FINALLY HEARD ON 09/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

K.Padmanabhan Nair,J.

E.F.A.No.33 of 1998

Dated, this the 9th day of April, 2007

JUDGMENT

The claimant in E.A.No.1144 of 1996 in E.P.No.315 of 1995 in O.S.No.1065 of 1992 on the file of II Additional Sub Court, Thrissur is the appellant. The property belonging to the judgment debtors was brought to sale by the 1st respondent , a Kuri Company. The appellant filed a claim petition under Order XXI Rule 58 of the Code of Civil Procedure raising a contention that the property belongs to the appellant Company. But, Exhibit B1 produced before the Court below showed that the property stood in the name of the 2nd respondent. So, the executing Court dismissed the petition filed under Order XXI Rule 58. Challenging that order, this appeal is filed.

2. It is seen that thereafter the very same appellant filed O.S.No.671 of 1995 for a declaration that it is the owner of the property. The defendants in O.S.No.671 of 1995 filed O.S.No.1533 of 1995 before the said Court for the very same relief. The suit filed by the appellant was dismissed on merits. So,

on that ground also, the decision of the executing Court cannot be interfered with in this appeal. So, the appeal is only to be dismissed.

In the result, the appeal is dismissed.

C.M.P.No.5586 of 1998 also shall stand dismissed.

K.Padmanabhan Nair
Judge

vku/-